IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4976 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

KHATABHAI P CHRISTIE

Appearance:

1. Special Civil Application No. 4976 of 1989

MR HARDIK C RAWAL for Petitioner No. 1

RULE SERVED for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 16/01/2002

ORAL JUDGEMENT

#. Heard Mr.H.C.Rawal, learned advocate appearing on behalf of the petitioner. Though, RULE has been served on the respondent, none remained present on behalf of the respondent nor the respondent has engaged any advocate on

his behalf. Therefore, this mater is taken for final hearing being old matter of the year 1989 in absence of the respondent.

#. The petitioner has challenged the award passed by the Labour Court in Reference No.863 /1983 dated 22nd August, 1988, wherein the labour court has set aside the termination order and granted reinstatement with continuity of service without any backwages of interim period. This Court has issued RULE on 21st January, 1991 with direction to the petitioner Corporation that name of the workman shall be reinserted in the list of the Badali workers subject to the result of the petition. Therefore, no interim relief has been granted by this Court staying operation of the award. Therefore, naturally as per the order passed by this Court, the workman must have been reinstated in service. The facts reveal that the respondent workman was serving as Badali Conductor at the relevant time on 26th February, 1982. The bus of the respondent workman was checked by the checking staff and allegations were made against the respondent workman that he had not issued the tickets though the fare was collected. On the basis of the allegations, on 27th April, 1982, notice was served on the respondent workman and thereafter, services of the respondent workman were terminated without holding any departmental inquiry against the respondent workman. However, the respondent workman had challenged the termination order before the Labour Court, Nadiad on the ground that his services were terminated as Badali worker on the basis of the allegations and there was stigma while terminating the services of the respondent workman and hence, the order of termination is contrary to the principles of natural justice. Ultimately, after considering the relevant record and the submissions of the learned advocates for the parties, the labour court has come the conclusion that the order of termination has been passed against the respondent workman without holding any departmental inquiry and therefore, it has violated the principles of natural justice and accordingly the labour court has granted reinstatement with continuity of service without backwages for interim period.

#. Learned advocate Mr.H.C.Rawal appearing on behalf of the petitioner has submitted that the respondent workman was Badali worker and the Badali worker is not an employee of the respondent Corporation and therefore, he is not entitled to have reasonable opportunity as prescribed under the S.T.Disciplinary Appeal Proceedings and therefore, the order of termination has been rightly

passed by the petitioner Corporation.

#. So far as the contention which has been raised by the learned advocate Mr.Rawal, the Division Bench of this Court has taken a view in case of GUJARAT STATE ROAD TRANSPORT CORPORATION V. CHANDULAL G. RASADIYA reported in 1993 [1] GLR 442. The relevant observations made in para-14 are quoted as under :-

> "14. In view of the aforesaid decisions, it would be difficult to uphold the contention raised by the learned advocate for the petitioner that in these cases the petitioner was not required to hold an elaborate inquiry for the misconduct of the respondent - Conductors. In both the petitions the Conductors' names are removed from the waiting list on the alleged ground of misappropriation of bus ticket fare as it is alleged that at the time of checking the buses on the relevant dates the Conductors had not issued the tickets after recovering fare and on such other grounds. In both the cases the Conductors have denied the allegations made against them. Inspite of this, the petitioner has not held any further inquiry. As both the Conductors have denied the allegations made against them, further inquiry ought to have been held and the department ought to have adduced evidence in support of the charges, and the delinquents ought to have been permitted to put relevant questions by way of cross examination if they desired. They also ought to have been given further chance to lead evidence in support of their case. In view view, this would be the barest requirement of holding an inquiry in this type of grave misconduct. In the present cases But Conductors are not removed on account of unsuitability. If they are removed without casting any stigma, then in that case further inquiry is not necessary. In this view of the matter, it cannot be said that the order passed by the Labour Court calls for any interference."

#. In light of above observations made by the Division Bench of this Court and considering the award passed by the labour Court under challenge, according to my opinion, the labour court has taken just and correct view that even Badali Conductor is also entitled to reasonable opportunity according to the principles of natural justice when the services of the respondent workman was

terminated on the basis of some alleged misconduct and allegations. In the present case, there was allegations against the respondent conductor and there was specific show cause notice issued by the petitioner Corporation, against which, reply was also filed by the respondent workman denying all such allegations made against him. Therefore, without giving reasonable opportunity and therefore, the action of the petitioner as also deleting name of the respondent workman from the waiting list of the Badali workers, obviously in contravention of the principles of natural justice. The view taken by the labour court is just and right and as such, no error has been committed by the labour court while passing such award. No illegality nor any procedural irregularity has been committed by the labour court which requires interference of this Court while exercising the powers under Article 226 and 227 of the Constitution of India. Therefore, the petition being without any substance, deserves to be rejected and the same is rejected accordingly. Rule discharged with no order as to costs. Ad-interim relief, if any, stands vacated.

Date : 16-1-2002 [H.K.Rathod, J.]
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